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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------|-------------|----------------------|---------------------|--------------------|
| 10/756,925 | 01/14/2004 | Thilo Schmidt | ZAHFRI P577US | 3740 |
| 20210 | 7590 | 06/24/2005 | EXAMINER | |
| DAVIS & BUJOLD, P.L.L.C. | | | | LORENCE, RICHARD M |
| FOURTH FLOOR | | | | |
| 500 N. COMMERCIAL STREET | | | | |
| MANCHESTER, NH 03101-1151 | | | | |
| | | | | ART UNIT |
| | | | | PAPER NUMBER |
| | | | | 3681 |

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

6.9

| | | |
|------------------------------|--------------------|----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/756,925 | SCHMIDT ET AL. |
| | Examiner | Art Unit |
| | Richard M. Lorence | 3681 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 18 May 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 18-34 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 18-34 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 14 January 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 1/14/04 & 2/2/04.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

This is the first Office action on the merits of Application No. 10/756,925 filed on January 14, 2004. Claims 18-34 are currently pending.

Election/Restrictions

Applicant's election with traverse of the species of Figures 3 and 4 in the reply filed on May 18, 2005 is acknowledged. The traversal is persuasive and the requirement for election is hereby withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The last 5 lines of claim 18 are unclear. First of all it is unclear what is meant by the phrase "the first working space (7) is maintained". Nor is it clear how the space 7 can be said to be maintained "by means of a second piston". As best understood pressure can be supplied to the space 7 depending on the position of the second piston 16 or 17. Also the last two lines of the claim are confusing as to what communicates with the clutch space. Presumably the recitation of the parallel clutch should occur

between the recitation of the second working space and the clutch space, rather than after the recitation of the clutch space. The claim needs to be amended in order to more particularly point out the disclosed structure and the operation thereof.

Allowable Subject Matter

Claims 18-34 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Information Disclosure Statement

The information disclosure statements (IDS) submitted on January 14, 2004 and February 2, 2004 have been considered by the examiner.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Will '108, Müller '313 and Paulsen '581 disclose devices for controlling hydraulic clutches in a transmission in the event of failure of an electronic control unit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard M. Lorence whose telephone number is (571) 272-7094. The examiner can normally be reached on Mondays through Fridays from 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Richard M. Lorence
Primary Examiner
Art Unit 3681

Lorence/rml